

AMENDMENTS TO LB 247

Introduced by Johnson, 37

1 1. Insert the following new sections:

2 Sec. 4. Section 71-101, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to
5 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354, sections 19
6 and 22 of this act, and the Physical Therapy Practice Act shall be
7 known and may be cited as the Uniform Licensing Law.

8 For purposes of the Uniform Licensing Law, unless the
9 context otherwise requires:

10 (1) Board or professional board means one of the boards
11 appointed by the State Board of Health pursuant to sections 71-111
12 and 71-112;

13 (2) Licensed, when applied to any licensee in any of the
14 professions named in section 71-102, means a person licensed under
15 the Uniform Licensing Law;

16 (3) Profession or health profession means any of the
17 several groups named in section 71-102;

18 (4) Department means the Department of Health and Human
19 Services Regulation and Licensure;

20 (5) Whenever a particular gender is used, it is construed
21 to include both the masculine and the feminine, and the singular
22 number includes the plural when consistent with the intent of the
23 Uniform Licensing Law;

1 (6) License, licensing, or licensure means permission to
2 engage in a health profession which would otherwise be unlawful
3 in this state in the absence of such permission and which is
4 granted to individuals who meet prerequisite qualifications and
5 allows them to perform prescribed health professional tasks and use
6 a particular title;

7 (7) Certificate, certify, or certification, with respect
8 to professions, means a voluntary process by which a statutory,
9 regulatory entity grants recognition to an individual who has met
10 certain prerequisite qualifications specified by such regulatory
11 entity and who may assume or use the word certified in the title or
12 designation to perform prescribed health professional tasks. When
13 appropriate, certificate means a document issued by the department
14 which designates particular credentials for an individual;

15 (8) Lapse means the termination of the right or privilege
16 to represent oneself as a licensed, certified, or registered person
17 and to practice the profession when a license, certificate, or
18 registration is required to do so;

19 (9) Credentialing means the totality of the process
20 associated with obtaining state approval to provide health care
21 services or human services or changing aspects of a current
22 approval. Credentialing grants permission to use a protected
23 title that signifies that a person is qualified to provide the
24 services of a certain profession. Credential includes a license,
25 certificate, or registration; and

26 (10) Dependence means a compulsive or chronic need for
27 or an active addiction to alcohol or any controlled substance or

1 narcotic drug.

2 Sec. 6. Section 71-1,186, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-1,186 For purposes of ~~As used in~~ sections 71-1,186 to
5 71-1,196 and elsewhere in the Uniform Licensing Law, unless the
6 context otherwise requires:

7 (1) Board ~~shall mean~~ means the Board of Audiology and
8 Speech-Language Pathology;

9 (2) Practice of audiology ~~shall mean~~ means the
10 application of ~~principles,~~ ~~methods,~~ and ~~procedures for testing,~~
11 ~~measuring,~~ and ~~monitoring hearing,~~ preparation of ear impressions
12 and selection of hearing aids, aural rehabilitation, hearing
13 conservation, vestibular testing of patients when vestibular
14 testing is done as a result of a referral by a physician, and
15 instruction related to hearing and disorders of hearing for the
16 purpose of preventing, identifying, evaluating, and minimizing
17 the effects of such disorders and conditions but shall not
18 include the practice of medical diagnosis, medical treatment,
19 ~~or surgery,~~ evidence-based practice in clinical decisionmaking
20 for the prevention, assessment, habilitation, rehabilitation,
21 and maintenance of persons with hearing, auditory function, and
22 vestibular function impairments and related impairments, including
23 (a) cerumen removal from the cartilaginous outer one-third portion
24 of the external auditory canal when the presence of cerumen may
25 affect the accuracy of hearing evaluations or impressions of the
26 ear canal for amplification devices and (b) evaluation, selection,
27 fitting, and dispensing of hearing aids, external processors of

1 implantable hearing aids, and assistive technology devices as part
2 of a comprehensive audiological rehabilitation program. Practice
3 of audiology does not include the practice of medical diagnosis,
4 medical treatment, or surgery;

5 (3) Audiologist ~~shall mean~~ means an individual who
6 practices audiology and who presents himself or herself to the
7 public by any title or description of services incorporating the
8 words audiologist, hearing clinician, hearing therapist, or any
9 similar title or description of services;

10 (4) Practice of speech-language pathology ~~shall mean~~
11 means the application of principles, ~~and methods, and procedures~~
12 ~~for the evaluation, monitoring, instruction, habilitation, or~~
13 ~~rehabilitation related to~~ associated with the development and
14 disorders of human communication skills and with dysphagia,
15 which principles and methods include screening, assessment,
16 evaluation, treatment, prevention, consultation, and restorative
17 modalities for speech, voice, ~~or~~ language, language-based learning,
18 hearing, swallowing, or other upper aerodigestive functions
19 for the purpose of improving quality of life by reducing
20 impairments of body functions and structures, activity limitations,
21 participation restrictions, and environmental barriers. Practice
22 of speech-language pathology does not include the practice of
23 medical diagnosis, medical treatment, or surgery; ~~for the purpose~~
24 ~~of preventing, identifying, evaluating, and minimizing the effects~~
25 ~~of such disorders and conditions but shall not include the practice~~
26 ~~of medical diagnosis, medical treatment, or surgery;~~

27 (5) Speech-language pathologist ~~shall mean~~ means an

1 individual who presents himself or herself to the public
2 by any title or description of services incorporating the
3 words speech-language pathologist, speech therapist, speech
4 correctionist, speech clinician, language pathologist, language
5 therapist, language clinician, logopedist, communicologist,
6 aphasiologist, aphasia therapist, voice pathologist, voice
7 therapist, voice clinician, phoniatrist, or any similar title,
8 term, or description of services; and

9 (6) ~~Communication assistant shall mean~~ Audiology or
10 speech-language pathology assistant or any individual who presents
11 himself or herself to the public by any title or description
12 with the same duties means any person who, following specified
13 training and receiving specified supervision, provides specified
14 limited structured communication or swallowing services, which are
15 developed and supervised by a licensed audiologist or licensed
16 speech-language pathologist, in the areas in which the supervisor
17 holds licenses; and -

18 (7) Dysphagia means disorders of swallowing.

19 Sec. 7. Section 71-1,187, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-1,187 Nothing in the Uniform Licensing Law shall be
22 construed to prevent or restrict:

23 (1) The practice of audiology or speech-language
24 pathology or the use of the official title of such practice by a
25 person employed as a speech-language pathologist or audiologist by
26 the federal government;

27 (2) A physician from engaging in the practice of medicine

1 and surgery or any individual from carrying out any properly
2 delegated responsibilities within the normal practice of medicine
3 and surgery under the supervision of a physician;

4 (3) A person licensed as a hearing aid fitter and dealer
5 in this state from engaging in the fitting, selling, and servicing
6 of hearing aids or performing such other duties as defined in
7 sections 71-4701 to 71-4719;

8 (4) The practice of audiology or speech-language
9 pathology or the use of the official title of such practice by
10 a person who holds a valid and current credential as a ~~speech~~
11 ~~or hearing specialist~~ speech-language pathologist or audiologist
12 issued by the State Department of Education, if such person
13 performs speech-language pathology or audiology services solely
14 as a part of his or her duties within an agency, institution, or
15 organization for which no fee is paid directly or indirectly by the
16 recipient of such service and under the jurisdiction of the State
17 Department of Education, but such person may elect to be within the
18 jurisdiction of sections 71-1,186 to 71-1,196; ~~or~~

19 (5) The clinical practice in audiology or speech-language
20 pathology required for students enrolled in an accredited college
21 or university pursuing a major in audiology or speech-language
22 pathology, if such clinical practices are supervised by a person
23 licensed to practice audiology or speech-language pathology and
24 if the student is designated by a title such as ~~trainee~~ student
25 clinician or other title clearly indicating the training status; or

26 -

27 (6) The utilization of a speech aide or other personnel

1 employed by a public school, educational service unit, or other
2 private or public educational institution working under the direct
3 supervision of a credentialed speech-language pathologist.

4 Sec. 8. Section 71-1,190, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-1,190 Every applicant for a license to practice
7 audiology or speech-language pathology shall (1) present proof of a
8 master's degree or its equivalent in ~~audiology~~ ~~or~~ speech-language
9 pathology or a master's degree or doctorate in audiology from an
10 academic program approved by the board, (2) present proof of at
11 least nine calendar months of full-time professional experience
12 or eighteen months of at least half-time professional experience
13 in speech-language pathology or audiology, supervised in the area
14 in which licensure is sought, and (3) successfully complete an
15 examination approved by the department on recommendation of the
16 board. Presentation of official documentation of certification by
17 a nationwide professional accrediting organization approved by the
18 board shall be deemed equivalent to subdivisions (1), (2), and (3)
19 of this section.

20 Sec. 9. Section 71-1,195.01, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 71-1,195.01 (1) Upon application and payment of the
23 registration fee, the department shall register to practice as a
24 ~~communication assistant~~ an audiology or speech-language pathology
25 assistant any person who:

26 (a) (i) Holds a bachelor's degree or its equivalent in
27 communication disorders, (ii) holds an associate degree or its

1 equivalent in communication disorders from an accredited training
2 program, or (iii) between the period of June 1, 2005, and June 1,
3 2007, was registered as and practiced as a communication assistant
4 for at least thirty hours per week for a minimum of nine months
5 per year; (a) Is a graduate of an accredited high school or its
6 equivalent;

7 (b) Has successfully completed all required training
8 pursuant to sections 71-1,195.04 and 71-1,195.05 and any inservice
9 training required pursuant to section 71-1,195.09; and

10 (c) Has demonstrated ability to reliably maintain
11 records and provide treatment under the supervision of a licensed
12 audiologist or speech-language pathologist.

13 (2) Such registration shall be valid for one year from
14 the date of issuance.

15 (3) The board shall, with the approval of the department,
16 adopt and promulgate rules and regulations necessary to administer
17 sections 71-1,195.01 to 71-1,195.09.

18 Sec. 10. Section 71-1,195.02, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 71-1,195.02 (1) The department, upon recommendation of
21 the board, shall approve an application submitted by an audiologist
22 or speech-language pathologist for supervision ~~for a communication~~
23 ~~assistant~~ of an audiology or speech-language pathology assistant
24 when:

25 (a) The ~~communication assistant~~ audiology or
26 speech-language pathology assistant meets the requirements
27 for registration pursuant to section 71-1,195.01;

1 (b) The audiologist or speech-language pathologist has a
2 valid Nebraska license; and

3 (c) The audiologist or speech-language pathologist
4 practices in Nebraska.

5 (2) Any audiologist or speech-language pathologist
6 seeking approval for supervision of a ~~communication assistant~~
7 an audiology or speech-language pathology assistant shall
8 submit an application which is signed by the ~~communication~~
9 ~~assistant~~ audiology or speech-language pathology assistant and the
10 audiologist or speech-language pathologist with whom he or she is
11 associated. Such application shall (a) identify the settings within
12 which the ~~communication assistant~~ audiology or speech-language
13 pathology assistant is authorized to practice, and (b) describe the
14 agreed-upon functions that the ~~communication assistant~~ audiology
15 or speech-language pathology assistant may perform as provided in
16 section 71-1,195.06, and (c) describe the provision for supervision
17 by an alternate audiologist or speech-language pathologist when
18 necessary.

19 (3) If the supervision of a ~~communication assistant~~ an
20 audiology or speech-language pathology assistant is terminated
21 by the audiologist, speech-language pathologist, or ~~communication~~
22 ~~assistant~~, audiology or speech-language pathology assistant,
23 the audiologist or speech-language pathologist shall notify the
24 department of such termination. An audiologist or speech-language
25 pathologist who thereafter assumes the responsibility for such
26 supervision shall obtain a certificate of approval to supervise a
27 ~~communication assistant~~ an audiology or speech-language pathology

1 ~~assistant~~ from the department prior to the use of the ~~communication~~
2 ~~assistant~~ audiology or speech-language pathology assistant in the
3 practice of audiology or speech-language pathology.

4 Sec. 11. Section 71-1,195.03, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-1,195.03 The department may deny, suspend, limit,
7 revoke, or otherwise discipline the registration of a ~~communication~~
8 ~~assistant~~ an audiology or speech-language pathology assistant
9 or the approval of a supervising audiologist or speech-language
10 pathologist granted under sections 71-1,195.01 and 71-1,195.02 upon
11 the grounds and in accordance with the Uniform Licensing Law for
12 any violation of sections 71-1,195.01 to 71-1,195.09.

13 Sec. 12. Section 71-1,195.04, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-1,195.04 Initial training for ~~communication assistant~~
16 an audiology or speech-language pathology assistant shall consist
17 of ~~at least twelve hours and~~ graduation from an accredited program
18 with a focus on communication disorders which shall include:

- 19 (1) An overview of speech, and language, and dysphagia
20 and the practice of audiology and speech-language pathology;
- 21 (2) Ethical and legal responsibilities;
- 22 (3) Normal language, speech, and hearing functions and
23 swallowing physiology;
- 24 (4) Observing and recording patient progress;
- 25 (5) Behavior management and modification; and
- 26 (6) Record keeping.

27 Sec. 13. Section 71-1,195.05, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-1,195.05 In addition to the initial training required
3 by section 71-1,195.04, ~~any communication assistant~~ an audiology
4 or speech-language pathology assistant assigned to provide aural
5 rehabilitation programs shall have additional training which shall
6 include, but not be limited to:

7 (1) Information concerning the nature of hearing loss;

8 (2) Purposes and principles of auditory and visual
9 training;

10 (3) Maintenance and use of amplification devices; and

11 (4) Such other subjects as the department may deem
12 appropriate.

13 Sec. 14. Section 71-1,195.06, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 71-1,195.06 ~~A communication assistant~~ An audiology or
16 speech-language pathology assistant may, under the supervision of
17 a licensed audiologist or speech-language pathologist, perform the
18 following duties and activities:

19 (1) Implement programs and procedures designed by
20 a licensed audiologist or speech-language pathologist; ~~which~~
21 ~~develop or refine receptive and expressive verbal and nonverbal~~
22 ~~communication skills;~~

23 (2) Maintain records of implemented procedures which
24 document a patient's responses to treatment;

25 (3) Provide input for interdisciplinary treatment
26 planning, inservice training, and other activities directed by a
27 licensed audiologist or speech-language pathologist;

1 (4) Prepare instructional material to facilitate
2 program implementation as directed by a licensed audiologist or
3 speech-language pathologist;

4 (5) ~~Recommend speech, language, and hearing referrals~~
5 ~~for evaluation by a licensed audiologist or speech-language~~
6 ~~pathologist;~~ (6) Follow plans, developed by the licensed audiologist
7 or speech-language pathologist, that provide specific sequences of
8 treatment to individuals with communicative disorders or dysphagia;
9 and

10 ~~(7)~~ (6) Chart or log patient responses to the treatment
11 plan.

12 Sec. 15. Section 71-1,195.07, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-1,195.07 A ~~communication assistant~~ An audiology or
15 speech-language pathology assistant shall not:

16 (1) Evaluate or diagnose any type of communication
17 disorder;

18 (2) Evaluate or diagnose any type of dysphagia;

19 (3) Interpret evaluation results or treatment progress;

20 ~~(3)~~ (4) Consult or counsel, independent of the licensed
21 audiologist or speech-language pathologist, with a patient, a
22 patient's family, or staff regarding the nature or degree of
23 communication disorders or dysphagia;

24 ~~(4)~~ (5) Plan patient treatment programs;

25 ~~(5)~~ (6) Represent himself or herself as an audiologist or
26 speech-language pathologist or as a provider of speech, language,
27 swallowing, or hearing treatment or assessment services; or

1 ~~(6)~~ (7) Independently initiate, modify, or terminate any
2 treatment program; or

3 (8) Fit or dispense hearing aids.

4 Sec. 16. Section 71-1,195.08, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-1,195.08 (1) When supervising ~~the communication~~
7 ~~assistant,~~ an audiology or speech-language pathology assistant, the
8 supervising audiologist or speech-language pathologist shall:

9 (a) Provide supervision for no more than two audiology or
10 speech-language pathology assistants at one time;

11 (b) Provide direct onsite supervision for the first
12 ~~treatment session;~~ two treatment sessions of each patient's care;

13 ~~(b)~~ (c) Provide direct onsite supervision of at least
14 twenty percent of all subsequent treatment sessions per quarter;

15 ~~(e)~~ (d) Provide regular and frequent inservice training,
16 at least ten hours of in-service training per registration
17 period, either formal or informal, which is directly related
18 to the particular services provided by the communication assistant,
19 audiology or speech-language pathology assistant; and

20 ~~(d)~~ (e) Prepare semiannual performance evaluations of
21 the communication assistant. audiology or speech-language pathology
22 assistant to be reviewed with the audiology or speech-language
23 pathology assistant on a one-to-one basis.

24 (2) The supervising audiologist or speech-language
25 pathologist shall be responsible for all aspects of patient
26 treatment.

27 Sec. 17. Section 71-1,195.09, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 71-1,195.09 The supervising audiologist or
3 speech-language pathologist shall provide ~~the communication~~
4 ~~assistant with an evaluation, supervision, and training, including~~
5 ~~at least ten hours each year of inservice training in areas related~~
6 ~~to the services provided by the communication assistant pursuant~~
7 ~~to section 71-1,195.08. Such training shall be verified by annual~~
8 ~~reports to the department verifying that evaluation, supervision,~~
9 ~~and training required by section 71-1,195.08 has been completed.~~

10 The audiologist or speech-language pathologist shall keep accurate
11 records of such evaluation, supervision, and training.

12 Sec. 18. Section 71-1,296, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 71-1,296 For purposes of sections 71-1,295 to 71-1,338
15 and sections 19 and 22 of this act, the definitions found in
16 sections 71-1,297 to 71-1,311 and section 19 of this act shall be
17 used.

18 Sec. 19. (1) Independent mental health practice means the
19 provision of treatment, assessment, psychotherapy, counseling, or
20 equivalent activities to individuals, couples, families, or groups
21 for behavioral, cognitive, social, mental, or emotional disorders,
22 including interpersonal or personal situations.

23 (2) Independent mental health practice includes
24 diagnosing major mental illness or disorder, using psychotherapy
25 with individuals suspected of having major mental or emotional
26 disorders, or using psychotherapy to treat the concomitants of
27 organic illness, with or without consultation with a qualified

1 physician or licensed psychologist.

2 (3) Independent mental health practice does not include
3 the practice of psychology or medicine, prescribing drugs or
4 electroconvulsive therapy, treating physical disease, injury, or
5 deformity, or measuring personality or intelligence for the purpose
6 of diagnosis or treatment planning.

7 Sec. 20. Section 71-1,307, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-1,307 (1) Mental health practice shall mean means the
10 provision of treatment, assessment, psychotherapy, counseling, or
11 equivalent activities to individuals, couples, families, or groups
12 for behavioral, cognitive, social, mental, or emotional disorders,
13 including interpersonal or personal situations.

14 (2) Mental health practice shall does not include:

15 (a) The the practice of psychology or medicine;

16 (b) Prescribing ~~prescribing~~ drugs or electroconvulsive
17 therapy;

18 (c) Treating ~~treating~~ physical disease, injury, or
19 deformity;

20 (d) Diagnosing ~~diagnosing~~ major mental illness or
21 disorder except in consultation with a qualified physician or a
22 psychologist licensed to engage in the practice of psychology as
23 provided in section 71-1,206.14;

24 (e) Measuring ~~measuring~~ personality or intelligence for
25 the purpose of diagnosis or treatment planning;

26 (f) Using ~~using~~ psychotherapy with individuals
27 suspected of having major mental or emotional disorders except in

1 consultation with a qualified physician or licensed psychologist;
2 or

3 (g) Using ~~or using~~ psychotherapy to treat the
4 concomitants of organic illness except in consultation with a
5 qualified physician or licensed psychologist.

6 (3) Mental health practice shall include ~~includes~~ the
7 initial assessment of organic mental or emotional disorders for the
8 purpose of referral or consultation.

9 (4) Nothing in sections 71-1,306, 71-1,310, and 71-1,311
10 shall be deemed to constitute authorization to engage in activities
11 beyond those described in this section. Persons certified under
12 sections 71-1,295 to 71-1,338 and sections 19 and 22 of this act
13 but not licensed under section 71-1,314 shall not engage in mental
14 health practice.

15 Sec. 21. Section 71-1,308, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 71-1,308 (1) Mental health practitioner shall mean means
18 a person who holds himself or herself out as a person qualified
19 to engage in mental health practice or a person who offers or
20 renders mental health practice services. Independent mental health
21 practitioner means a person who holds himself or herself out as a
22 person qualified to engage in independent mental health practice or
23 a person who offers or renders independent mental health practice
24 services.

25 (2) A person who is licensed as a mental health
26 practitioner or an independent mental health practitioner and
27 certified as a master social worker may use the title licensed

1 clinical social worker. A person who is licensed as a mental health
2 practitioner or an independent mental health practitioner and
3 certified as a professional counselor may use the title licensed
4 professional counselor. A person who is licensed as a mental
5 health practitioner or an independent mental health practitioner
6 and certified as a marriage and family therapist may use the
7 title licensed marriage and family therapist. No person shall use
8 the title licensed clinical social worker, licensed professional
9 counselor, or licensed marriage and family therapist unless he
10 or she is licensed and certified as provided in this ~~section.~~
11 subsection.

12 (3) A mental health practitioner shall not represent
13 himself or herself as a physician or psychologist and shall not
14 represent his or her services as being medical or psychological
15 in nature. An independent mental health practitioner shall not
16 represent himself or herself as a physician or psychologist.

17 Sec. 22. (1) No person shall hold himself or herself out
18 as an independent mental health practitioner unless he or she is
19 licensed as such by the department. A person shall be qualified to
20 be a licensed independent mental health practitioner if he or she:

21 (a) (i) (A) Graduated with a masters' or doctoral degree
22 from an educational program which is accredited, at the time of
23 graduation or within four years after graduation, by the Council
24 for Accreditation of Counseling and Related Educational Programs,
25 the Commission on Accreditation for Marriage and Family Therapy
26 Education, or the Council on Social Work Education or (B) graduated
27 with a masters' or doctoral degree from an educational program

1 deemed by the board to be equivalent in didactic content and
2 supervised clinical experience to an accredited program;

3 (ii) Is licensed as a provisional mental health
4 practitioner or a licensed mental health practitioner; and

5 (iii) Has three thousand hours of experience obtained
6 in a period of not less than two nor more than five years and
7 supervised by a licensed physician, a licensed psychologist, or a
8 licensed independent mental health practitioner, one-half of which
9 is comprised of experience with clients diagnosed under the major
10 mental illness or disorder category; or

11 (b) (i) Graduated from an educational program which does
12 not meet the requirements of subdivision (a) (i) of this subsection;

13 (ii) Is licensed as a provisional mental health
14 practitioner or a mental health practitioner; and

15 (iii) Has seven thousand hours of experience obtained in
16 a period of not less than ten years and supervised by a licensed
17 physician, a licensed psychologist, or a licensed independent
18 mental health practitioner, one-half of which is comprised of
19 experience with clients diagnosed under the major mental illness or
20 disorder category.

21 (2) The experience required under this section shall be
22 documented in a reasonable form and manner as prescribed by the
23 board, which may consist of sworn statements from the applicant and
24 his or her employers and supervisors. The board shall not in any
25 case require the applicant to produce individual case records.

26 (3) The application for an independent mental health
27 practitioner license shall include the applicant's social security

1 number.

2 Sec. 23. Section 71-1,315, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-1,315 Each licensed mental health practitioner and
5 each licensed independent mental health practitioner shall, in
6 the period since his or her license was issued or last renewed,
7 complete continuing competency activities as required by the board
8 pursuant to section 71-161.09 as a prerequisite for the licensee's
9 next subsequent license renewal.

10 Sec. 24. Section 71-1,316, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-1,316 The department, upon the advice of the board,
13 shall adopt and promulgate rules and regulations to administer
14 sections 71-1,312 to 71-1,315 and section 22 of this act, including
15 rules and regulations governing:

16 (1) Ways of clearly identifying students, interns, and
17 other persons providing mental health practice services under
18 supervision;

19 (2) The rights of persons receiving mental health
20 practice services;

21 (3) The rights of clients to gain access to their
22 records, including the right of any client to receive one complete
23 copy of his or her record free of charge;

24 (4) The contents and methods of distribution of
25 disclosure statements to clients of licensed mental health
26 practitioners; and

27 (5) Approval of examinations and educational programs.

1 Sec. 25. Section 71-1,333, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 71-1,333 (1) The department shall issue a certificate,
4 signed by the director, to each person who is qualified to be a
5 certified master social worker, certified social worker, certified
6 professional counselor, or certified marriage and family therapist.

7 (2) The department shall issue a license, signed by
8 the director, to each person who is qualified to be a licensed
9 mental health practitioner or licensed independent mental health
10 practitioner.

11 Sec. 26. Section 71-1,335, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 71-1,335 No person licensed or certified pursuant to
14 sections 71-1,295 to 71-1,338 and sections 19 and 22 of this act
15 shall disclose any information he or she may have acquired from any
16 person consulting him or her in his or her professional capacity
17 except:

18 (1) With the written consent of the person or, in
19 the case of death or disability, of the person's personal
20 representative, any other person authorized to sue on behalf
21 of the person, or the beneficiary of an insurance policy on the
22 person's life, health, or physical condition. When more than one
23 person in a family receives therapy conjointly, each such family
24 member who is legally competent to execute a waiver shall agree to
25 the waiver referred to in this subdivision. Without such a waiver
26 from each family member legally competent to execute a waiver,
27 a practitioner shall not disclose information received from any

1 family member who received therapy conjointly;

2 (2) As such privilege is limited by the laws of the State
3 of Nebraska or as the ~~Board of Mental Health Practice~~ board may
4 determine by rule and regulation;

5 (3) When the person waives the privilege by bringing
6 charges against the licensee; or

7 (4) When there is a duty to warn under the limited
8 circumstances set forth in section 71-1,336.

9 Sec. 27. Section 71-1,336, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 71-1,336 (1) There shall be no monetary liability on the
12 part of, and no cause of action shall arise against, any person who
13 is licensed or certified pursuant to sections 71-1,295 to 71-1,338
14 and sections 19 and 22 of this act for failing to warn of and
15 protect from a patient's threatened violent behavior or failing to
16 predict and warn of and protect from a patient's violent behavior
17 except when the patient has communicated to the mental health
18 practitioner a serious threat of physical violence against himself,
19 herself, or a reasonably identifiable victim or victims.

20 (2) The duty to warn of or to take reasonable precautions
21 to provide protection from violent behavior shall arise only
22 under the limited circumstances specified in subsection (1) of
23 this section. The duty shall be discharged by the mental health
24 practitioner if reasonable efforts are made to communicate the
25 threat to the victim or victims and to a law enforcement agency.

26 (3) No monetary liability and no cause of action shall
27 arise under section 71-1,335 against a licensee or certificate

1 holder for information disclosed to third parties in an effort
2 to discharge a duty arising under subsection (1) of this section
3 according to the provisions of subsection (2) of this section.

4 Sec. 28. Section 71-1,337, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 71-1,337 The Board of Mental Health Practice shall adopt
7 a code of ethics which is essentially in agreement with the current
8 code of ethics of the national and state associations of the
9 specialty professions included in mental health practice and which
10 the board deems necessary to assure adequate protection of the
11 public in the provision of mental health services to the public.
12 A violation of the code of ethics shall be considered an act of
13 unprofessional conduct.

14 The board shall ensure through the code of ethics and
15 the rules and regulations adopted and promulgated under sections
16 71-1,295 to 71-1,338 and sections 19 and 22 of this act that
17 persons licensed or certified pursuant to sections 71-1,295 to
18 71-1,338 and sections 19 and 22 of this act limit their practice
19 to demonstrated areas of competence as documented by relevant
20 professional education, training, and experience.

21 Intentional failure by a mental health practitioner to
22 report known acts of unprofessional conduct by a mental health
23 practitioner to the department or the board shall be considered
24 an act of unprofessional conduct and shall be grounds for
25 disciplinary action under appropriate sections of the Uniform
26 Licensing Law unless the mental health practitioner has acquired
27 such knowledge in a professional relationship otherwise protected

1 by confidentiality.

2 Sec. 29. Section 71-1,338, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 71-1,338 Any person who violates any provision of the
5 Uniform Licensing Law related to mental health practice shall be
6 guilty of a Class III misdemeanor, and any such violation by
7 a person licensed or certified pursuant to sections 71-1,295 to
8 71-1,338 and sections 19 and 22 of this act shall be cause for
9 disciplinary action as provided in sections 71-147 to 71-161.18.

10 Sec. 31. Section 71-4702, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 71-4702 (1) No person shall engage in the sale of or
13 practice of fitting hearing aids or display a sign or in any
14 other way advertise or represent himself or herself as a person
15 who practices the fitting and sale or dispensing of hearing aids
16 unless he or she holds an unsuspended, unrevoked license issued
17 by the department as provided in sections 71-4701 to 71-4719. The
18 license shall be conspicuously posted in his or her office or place
19 of business. A license shall confer upon the holder the right to
20 select, fit, and sell hearing aids.

21 (2) A licensed audiologist who maintains a practice
22 pursuant to licensure as an audiologist in which hearing aids are
23 regularly dispensed or who intends to maintain such a practice
24 shall also be licensed pursuant to subsection (4) of section
25 71-4707.

26 ~~(2)~~ (3) Nothing in ~~such~~ sections 71-4701 to 71-4719 shall
27 prohibit a corporation, partnership, limited liability company,

1 trust, association, or other like organization maintaining an
2 established business address from engaging in the business of
3 selling or offering for sale hearing aids at retail without a
4 license if it employs only properly licensed natural persons in
5 the direct sale and fitting of such products. Such corporation,
6 partnership, limited liability company, trust, association, or like
7 organization shall file annually with the board a list of all
8 licensed hearing aid instrument dispensers and fitters directly or
9 indirectly employed by it. Such corporation, partnership, limited
10 liability company, trust, association, or like organization shall
11 also file with the board a statement on a form approved by the
12 board that it submits itself to the rules and regulations of the
13 department and the provisions of such sections which the department
14 deems applicable.

15 ~~(3)~~ (4) Nothing in such sections shall prohibit the
16 holder of a license from the fitting and sale of wearable
17 instruments or devices designed for or offered for the purpose
18 of conservation or protection of hearing.

19 Sec. 32. Section 71-4707, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-4707 (1) Any person may obtain a license by
22 successfully passing a qualifying examination if the applicant:

- 23 (a) Is at least twenty-one years of age;
- 24 (b) Is of good moral character;
- 25 (c) Has an education equivalent to a four-year course in
26 an accredited high school; and
- 27 (d) Is free of contagious or infectious disease.

1 (2) Each applicant for license by examination shall
2 appear at a time and place and before such persons as the
3 department may designate to be examined by means of written and
4 practical tests in order to demonstrate that he or she is qualified
5 to practice the fitting and sale of hearing aids. The examination
6 shall not be conducted in such a manner that college training is
7 required in order to pass. Nothing in this examination shall imply
8 that the applicant is required to possess the degree of medical
9 competence normally expected of physicians.

10 (3) The department shall give examinations as determined
11 by the board, except that a minimum of two examinations shall be
12 offered each calendar year.

13 (4) The department shall issue a license without
14 examination to a licensed audiologist who maintains a practice
15 pursuant to licensure as an audiologist in which hearing aids are
16 regularly dispensed or who intends to maintain such a practice upon
17 application to the department, proof of licensure, and payment of a
18 twenty-five-dollar fee.

19 Sec. 35. Section 71-8402, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 71-8402 For purposes of sections 71-8401 to 71-8407:

22 (1) Medical records means a provider's record of a
23 patient's health history and treatment rendered;

24 (2) Mental health medical records means medical records
25 or parts thereof created by or under the direction or supervision
26 of a licensed psychiatrist, a licensed psychologist, or a mental
27 health practitioner licensed or certified pursuant to sections

1 71-1,295 to 71-1,338 and sections 19 and 22 of this act;

2 (3) Patient includes a patient or former patient;

3 (4) Patient request or request of a patient includes the
4 request of a patient's guardian or other authorized representative;
5 and

6 (5) Provider means a physician, psychologist,
7 chiropractor, dentist, hospital, clinic, and any other licensed or
8 certified health care practitioner or entity.

9 Sec. 36. Section 81-651, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 81-651 (1) The Department of Health and Human Services
12 may provide visiting community nursing services or home health
13 services to persons living in the state and may charge fees for
14 such services. The department shall not be exempt from licensure as
15 a home health agency under the Health Care Facility Licensure Act.

16 (2) The department may organize, license, and operate
17 home health agencies to assist in providing services under
18 subsection (1) of this section.

19 (3) The department (a) may employ necessary
20 personnel, including, but not limited to, licensed nurses,
21 physical therapists, physical therapy assistants, audiologists,
22 speech-language pathologists, ~~communication assistants,~~ audiology
23 or speech-language pathology assistants, occupational therapists,
24 occupational therapy assistants, home health aides, homemakers,
25 respiratory care practitioners, nutritionists, social workers, and
26 supervisory personnel, and may purchase equipment and materials
27 necessary to maintain an effective program or (b) may contract with

1 individuals or licensed agencies to obtain such services or to
2 assist in providing services under subsection (1) of this section.

3 (4) The department may contract with any public, private,
4 for-profit, or nonprofit agency or individual to provide home
5 health services through any licensed home health agency created
6 under subsection (2) of this section.

7 Sec. 37. Original sections 71-1,186, 71-1,187, 71-1,190,
8 71-1,195.01, 71-1,195.02, 71-1,195.03, 71-1,195.04, 71-1,195.05,
9 71-1,195.06, 71-1,195.07, 71-1,195.08, 71-1,195.09, 71-1,296,
10 71-1,307, 71-1,308, 71-1,315, 71-1,316, 71-1,333, 71-1,335,
11 71-1,336, 71-1,337, 71-1,338, 71-4702, 71-4707, 71-8402, and
12 81-651, Reissue Revised Statutes of Nebraska, and section 71-101,
13 Revised Statutes Cumulative Supplement, 2006, are repealed.

14 Sec. 38. The following sections are outright repealed:
15 Sections 71-1,186.01, 71-1,190.01, and 71-1,192, Reissue Revised
16 Statutes of Nebraska.

17 2. Renumber the remaining sections and correct the
18 repealer accordingly.